

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 58th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES

Call to Order: By **CHAIRMAN EDITH CLARK**, on February 20, 2003 at 8:06 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Edith Clark, Chairman (R)
Sen. John Cobb, Vice Chairman (R)
Rep. Dick Haines (R)
Rep. Joey Jayne (D)
Sen. Bob Keenan (R)
Sen. Emily Stonington (D)

Members Excused: None.

Members Absent: None.

Staff Present: Robert V. Andersen, OBPP
Pat Gervais, Legislative Branch
Lois Steinbeck, Legislative Branch
Sydney Taber, Committee Secretary

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed. The time stamp refers to material below it.

Committee Business Summary:

Hearing & Date Posted:	Public Testimony on Change of Mission at Eastmont
Executive Action:	Language for HB 2 and HB 2 Narrative Motion to Proceed with Committee Bill LC 2164 Childcare Funding Tobacco Prevention

HEARING ON CHANGE OF MISSION AT EASTMONT

{Tape: 1; Side: A; Approx. Time Counter: .6 - 1.7}

REP. RALPH LENHART, HD 2, Glendive, introduced Glendive community leaders who had come to give testimony to the Subcommittee with regard to the closure of Eastmont.

{Tape: 1; Side: A; Approx. Time Counter: 1.7 - 13}

Jerry Jimmeson, Mayor of Glendive, said that he and the other members of the group would like additional information on the closure of Eastmont. He stated that the community of Glendive is upset about the proposed closure and would like to keep the facility open in its present capacity. They have been working to find another option which would save the State millions of dollars and keep the facility open. He expressed concerns about the form of draft bill LC 2134, which closes Eastmont and transfers ownership to the Department of Corrections (DOC) program for treatment of chemical dependency. So far, DOC is the only organization that has a comprehensive plan for the facility, but the community would like more time to explore other options. He requested that language keeping the facility open until July 1, 2004 be added to the draft bill so that the community would have time to investigate other possibilities.

{Tape: 1; Side: A; Approx. Time Counter: 13 - 16}

Don Kettner, President of the Dawson County Economic Council, requested that the Subcommittee change the closure date and include language in the bill allowing other uses of the facility. He added that he is looking into the use of the facility as an extension of the Eastern Montana Veterans' Home.

{Tape: 1; Side: A; Approx. Time Counter: 16 - 20}

SEN. KEITH BALES, SD 1, Glendive, said that the people of Glendive would prefer to see the Eastmont facility filled to capacity and continued as is. The community is committed to work to bring Eastmont to full utilization by the State. They are also willing to look at some other uses of the facility, but would like to explore other avenues than that offered by DOC.

{Tape: 1; Side: A; Approx. Time Counter: 20 - 22.3}

CHAIRMAN CLARK asked what language they would like changed, and **Mr. Jimmeson** said that they want the draft bill to include other options than the DOC program, and they want the closure date changed. He asked for information on the procedure to present a plan to the legislature.

{Tape: 1; Side: A; Approx. Time Counter: 22.3 - 25.3}

SEN. COBB asked **Pat Gervais, Legislative Fiscal Division (LFD)** how they would change the language allowing more options. **Ms. Gervais** responded that when she had reviewed the Subcommittee request with legal staff, he indicated that there needs to be a placeholder in the language. The bill is drafted broadly enough so that it can be easily amended, but transfer of the property does need to be incorporated into it somewhere. **SEN. COBB** asked if DOC could sublet to some other department if the bill did pass, and **Ms. Gervais** said that it could probably do so, although she is unfamiliar with all the statutes.

{Tape: 1; Side: A; Approx. Time Counter: 25.3 - 30.5}

REP. LENHART asked if there was a reason why the facility could not stay within the Department of Public Health and Human Services (DPHHS). **SEN. STONINGTON** explained that if the building remained within DPHHS and unoccupied, there would be maintenance expenses which the Department would have to fund. In her opinion, a transfer to the Department of Administration (DOA) would provide the greatest flexibility for use of the facility. As it stands, Eastmont will be closed by the end of the year, so there is some urgency with regard to further explanation of the language. There are many closing costs and some start-up costs calculated into the budget.

{Tape: 1; Side: A; Approx. Time Counter: 30.5 - 31.4}

Ms. Gervais said that in the event that the bill does not pass through the legislature, the Subcommittee has adopted contingency language in HB 2 which appropriates approximately \$1.9 million per year additional funding to the Department to maintain both Eastmont and Montana Developmental Center (MDC). **SEN. KEENAN** observed that closure of Eastmont creates a \$4 million general fund savings in the Executive Budget, but the lack of action on decision packages makes it a \$140,000 savings. **Ms. Gervais** said that a comparison of the Subcommittee approved decision packages with the Executive Budget indicates that there is a \$1.9 million per year approximate savings; compared to the legislative budget for the Department, there is a net savings of about \$140,000.

{Tape: 1; Side: A; Approx. Time Counter: 31.4 - 41.3}

Responding to a statement from **REP. LENHART** that the Glendive community now has a lobbying job ahead of it, **SEN. COBB** said the Subcommittee has made a recommendation, and that recommendation must now go through the process. If it fails anywhere along the way, the Subcommittee has to put \$4 million back into the budget and make the cut elsewhere. **Mr. Jimmeson** again asked if they could change the closure date in the bill from December 2003 to July 1, 2004. This would allow more flexibility and time for the community to explore other alternatives for the facility, and **SEN. COBB** said that as long as it is in session, the legislature

can make changes, but once they are gone nothing can be done about it.

{Tape: 1; Side: A; Approx. Time Counter: 41.3 - 49.5}

REP. HAINES commented that he is sensitive to the language that they have used with regard to this issue. He suggested that rather than speaking of closure, they should be speaking of a change in mission. He suggested that perhaps the legislature should be including retraining money in the proposed budget, so that individuals who work at Eastmont could be retrained should the mission change.

{Tape: 1; Side: B; Approx. Time Counter: 0.7 - 2.1}

SEN. STONINGTON said that while the legislature is in session there is an opportunity to bring in other agencies to see if there is another use for Eastmont.

{Tape: 1; Side: B; Approx. Time Counter: 2.1 - 4.1}

CHAIRMAN CLARK stated that it was not the Subcommittee's intent to tell the community what to do, but it had offered options within the window of opportunity. The reference to closure has been closure for the current use of the facility; it was not intended that there be no other option.

{Tape: 1; Side: B; Approx. Time Counter: 4.1 - 7.7}

REP. LENHART thanked the Subcommittee for listening. He commented that Eastmont has been on the chopping block for many sessions, but that the Subcommittee bill had gotten the community's attention. He asked that they extend the days so that the community could work for a good solution for Eastmont.

{Tape: 1; Side: B; Approx. Time Counter: 7.7 - 20}

The Subcommittee advised the community leaders that they would have about three or four more weeks to work on this. **Ms. Gervais** said that once the bill is assigned it will be posted on the Internet site and offered her assistance should they want to find out where the hearings will be. The Subcommittee offered further assistance to the community. **Gail Gray, Director of the**

Department of Public Health and Human Services (DPHHS), said that she would bring the dollar figures on the impact it would have if Eastmont were to close July 1, 2004 instead of in December 2003.

Joe Mathews, Administrator of Disability Services Division (DSD), offered to bring a breakdown of staff, categories, and training required. He added that his budget includes funds for retraining staff. **SEN. BALES** asked the Department to give him the information requested on the financial impact of closing Eastmont July 1, 2004 as well as the staffing information. **SEN.**

STONINGTON suggested that the best bet for the community is to

work through its representatives since the Subcommittee will not reconvene except in special circumstances.

In conclusion, **SEN. COBB** commented that he has not seen a time when the Subcommittee has been so willing to work with a community. Usually, they just make a decision and say too bad.

{Tape: 1; Side: B; Approx. Time Counter: 20 - 27.4}

Andree Larose, Attorney for the Montana Advocacy Program (MAP), suggested that when it closes Eastmont, the Department should consider moving the individuals that currently reside in Eastmont to the community, rather than moving them to MDC and then to the community. She said that there is a significant savings when disabled individuals are moved into community settings. **Ms. Larose** then reviewed the lawsuit that MAP has brought against the State and observed that it will be costly. In conclusion, she stated that this a good opportunity for the Department to move people from institutions into community settings, to do what is right for disable individuals, and to save the state money.

{Tape: 1; Side: B; Approx. Time Counter: 27.4 - 29.5}

Director Gray said that they have begun evaluations at Eastmont and are looking into group home options in the Glendive community. The Department has looked at it in terms of the litigations and as an economic package for Glendive.

{Tape: 1; Side: B; Approx. Time Counter: 29.5 - 29.5}

Referring to Exhibit 1, **Ms. Gervais** reviewed a draft of alternative language to that proposed by Judy Smith of Women's Opportunity and Resource Development (WORD) with regard to Montana's Welfare Reform Program. She has shared this language with both Ms. Smith and Hank Hudson, Administrator of Human and Community Services Division (HCSD). **SEN. COBB** asked that the appropriate interim legislative committee be included within the list of those with whom the Department must consult.

EXHIBIT(jhh38a01)

{Tape: 1; Side: B; Approx. Time Counter: 38.2 - 39.2}

Motion/Vote: **SEN. COBB** moved THE RECOMMENDED LANGUAGE FOR THE LEGISLATIVE FISCAL REPORT NARRATIVE, THAT IT IS THE LEGISLATURE'S INTENT THAT THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES MAINTAIN THE PHILOSOPHIES EMBODIED IN MONTANA'S WELFARE REFORM PROGRAM. IT IS THE LEGISLATURE'S INTENT THAT THE NUMBER OF HOURS OF WORK REQUIRED OF RECIPIENTS AND THE ACTIVITIES THAT COUNT TOWARD WORK REQUIREMENTS BE CHANGED ONLY IF: MANDATED BY THE FEDERAL GOVERNMENT; NECESSARY BECAUSE MANDATED FEDERAL CHANGES ARE IMMINENT WITHIN SIX MONTHS OF THE DATE OF IMPLEMENTATION OF

ANY CHANGE; OR THE DEPARTMENT CAN DEMONSTRATE A COMPELLING RATIONALE THAT CHANGES ARE NEEDED TO SUPPORT MONTANA'S WELFARE REFORM GOALS. PRIOR TO IMPLEMENTATION OF CHANGES IN WORK REQUIREMENTS OR THE DEFINITION OF ACTIVITIES THAT COUNT TOWARD WORK, THE DEPARTMENT WILL CONSULT WITH THE APPROPRIATE LEGISLATIVE INTERIM COMMITTEE AND EMPLOYMENT AND TRAINING SERVICE CONTRACTORS AND TRIBAL ENTITIES, AND OBTAIN APPROVAL FOR IMPLEMENTATION OF THE PROPOSED CHANGES FROM THE OFFICE OF BUDGET AND PROGRAM PLANNING (OBPP). Motion carried 5-0 on a voice vote. REP. JAYNE cast her vote in accordance with the 24-hour rule. No proxy for REP. HAINES was voted.

EXHIBIT(jhh38a02)

{Tape: 1; Side: B; Approx. Time Counter: 39.2 - 41.2}

Motion/Vote: SEN. COBB moved THE RECOMMENDED LANGUAGE FOR HB 2 , THAT HUMAN AND COMMUNITY SERVICES DIVISION INCLUDED \$33,269,235 FEDERAL FUNDS IN FY04 AND \$33,269,235 FEDERAL FUND IN FY05 TO FUND CASH ASSISTANCE BENEFITS PROVIDED UNDER MONTANA'S TEMPORARY ASSISTANCE FOR NEEDY FAMILIES (TANF) GRANT. IF CASELOADS DECREASE BELOW THIS LEVEL OF FUNDING, RESULTING IN A SURPLUS OF FEDERAL TANF FUNDS, THE FIRST \$4 MILLION OF SURPLUS FUNDS WILL BE DESIGNATED AS A "RAINY DAY" FUND. THE RAINY DAY FUND MAY BE USED FOR BENEFIT EXPENDITURES THAT MAY BE NECESSARY AS A RESULT OF FUTURE CASELOAD INCREASES OR DECREASES IN THE FEDERAL TANF GRANT ALLOCATION. SURPLUS FUNDS IN EXCESS OF \$4 MILLION MAY BE USED FOR OTHER ALLOWABLE PURPOSES UNDER STATE AND FEDERAL LAW. EXPENDITURES OF SURPLUS FUNDS IN EXCESS OF \$4 MILLION MAY BE MADE TO PROVIDE RECIPIENTS COVERED BY MONTANA'S STATE TANF PLAN: 1) CHILDCARE SUBSIDIES, 2) TRAINING AND EDUCATION PROGRAMS TO ACHIEVE EMPLOYMENT IN HIGHER WAGE JOBS, INCLUDING PROGRAMS OFFERED BY TRIBAL COLLEGES, OR 3) SUPPORTIVE SERVICES NEEDED FOR EMPLOYMENT OF TANF RECIPIENTS. Motion carried 4-0 on a voice vote. Proxies for REP. HAINES and REP. JAYNE were not voted.

{Tape: 1; Side: B; Approx. Time Counter: 41.2 - 46.9}

There was discussion of requested changes to the language that would be inserted in the fiscal report from the bottom portion of Exhibit 2. **Mr. Hudson** said that they would like to insert, under number one, that an average monthly TANF expenditure amount will be calculated based on three consecutive months, beginning July 1, 2003. This would mean that they would look at July, August, and September caseloads, and if they were way over budget with regards to benefits, they would have three months at which the earliest cut in benefits could be made. This would be in December 2003. **Mr. Hudson** expressed the caveat that, if they stay at the caseload levels they are now, or things really

deteriorate in March, he may wish to revisit this in April while the legislature is still in town.

{Tape: 1; Side: B; Approx. Time Counter: 46.9 - 49.8}

Motion/Vote: SEN. COBB moved THE LANGUAGE RECOMMENDED TO BE INSERTED IN THE LEGISLATIVE FISCAL REPORT, THAT WHEN TANF BENEFIT EXPENDITURE PROJECTIONS EXCEED A SUSTAINABLE LEVEL FOR THE 12-MONTH PERIOD, BENEFITS MAY BE REDUCED TO A LEVEL THAT WOULD MAINTAIN SOLVENCY OF THE BLOCK GRANT. THE TRIGGER AND PROCESS FOR BENEFIT REDUCTION IS AS FOLLOWS: 1) AN AVERAGE MONTHLY TANF EXPENDITURE AMOUNT WILL BE CALCULATED BASED ON THREE CONSECUTIVE MONTHS BEGINNING ON JULY 1, 2003 OF BENEFIT EXPENDITURES AND BENEFITS WILL NOT BE REDUCED PRIOR TO DECEMBER 2003. THIS AVERAGE WILL BE PROJECTED OVER A 12-MONTH PERIOD AND IF THE PROJECTION EXCEEDS THE BUDGETED AMOUNT AVAILABLE FOR BENEFITS, THEN; 2) THE DEPARTMENT WILL CERTIFY TO THE OFFICE OF BUDGET AND PROGRAM PLANNING THAT BENEFIT EXPENDITURES ARE PROJECTED TO EXCEED THE AVAILABLE GRANT; 3) THE NEW BENEFIT LEVEL WILL BE SET BY USING AN AVERAGE OF ACTUAL BENEFIT EXPENDITURES OVER A PERIOD OF TIME THAT CAPTURES SEASONAL VARIATIONS IN THE AMOUNT OF BENEFITS NEEDED; AND 4) IF DURING THIS BIENNIUM BENEFIT LEVELS ARE REDUCED UNDER THE CIRCUMSTANCES ABOVE, THIS PROCESS AND BENEFIT LEVELS WILL BE REVISITED DURING THE NEXT LEGISLATIVE SESSION. Motion carried 5-0 on a voice vote. REP. JAYNE cast her vote in accordance with the 24-hour rule. No proxy was voted for REP. HAINES.

Refinance Bill Draft, LC 2164

{Tape: 2; Side: A; Approx. Time Counter: 0.3 - 14}

Ms. Steinbeck went over her discussion with legal staff regarding Subcommittee concerns with the refinancing bill. He did not recommend a way to integrate HB 2 language with the refinancing bill, but indicated that they would need to make changes to statute. They could then condition appropriations, but this must be done in accordance with statute. **Ms. Steinbeck** explained that the bill draft amends 17-7-208, which requires the expenditure of nongeneral fund money first, and it would allow DPHHS to keep general fund freed up by refinancing, subject to determination by the OBPP.

The policy issue with reference to the refinance is that the Subcommittee needs to determine how much general fund this biennium to be retained by DPHHS and used in this order of priority. The Subcommittee had indicated that it would like this reviewed every session, which could be a standing order for LFD staff. **Ms. Steinbeck** suggested that they could act on this later in the week, if they chose. **CHAIRMAN CLARK** indicated that it was her wish to do the discussion and vote now so that the bill could

be moved along. **Ms. Steinbeck** suggested a temporary section to the bill which would specify priorities for freed up general fund which the Department or OBPP should consider for this biennium. Another alternative would be to make the entire bill temporary, which would be a more difficult process.

Ms. Steinbeck suggested several options for the use of the refinance money which the Subcommittee may wish to consider such as: offsetting reductions should Medicaid caseload grow, offsetting reductions in optional services, and a temporary expansion of Children's Healthcare Insurance Program (CHIP).

SEN. COBB said that they had discussed three things the other day and suggested that these should be the items for which any refinance money was used: 1) funding the Refinance Unit, 2) funding existing programs in case of a Medicaid blow up, and 3) putting some of the cuts back subject to approval by OBPP. **Ms. Steinbeck** said that she was referring to a temporary or one-time use of savings in addition to and above those already included in the budget. She asked the Subcommittee if it wanted unanticipated monies to revert to the general fund or to be used for other programs on a one-time basis.

EXHIBIT (jhh38a03)

{Tape: 2; Side: A; Approx. Time Counter: 14 - 15}

Motion/Vote: REP. CLARK moved LC 2164, THE DPHHS REFINANCE BILL. Motion carried 5-0 on a voice vote. REP. JAYNE cast her vote in accordance with the 24-hour rule. No proxy was voted for REP. HAINES.

{Tape: 2; Side: A; Approx. Time Counter: 15 - 20}

Ms. Steinbeck distributed language which would implement the additional appropriation requested for the Montana Veterans' homes from 16-11-119. During testimony, the Senior and Long Term Care (SLTC) Division requested the ability to have additional money from the cigarette tax revenue allocated to fund the Veterans' Homes. They want to avoid the situation in which they found themselves in the last biennium when staff costs went up, and they needed to be able to fill the beds to generate private pay and federal special revenue. There was language recommended by the Department which **Ms. Steinbeck** considered an implied amendment to substantive law, so she provided an alternative. This alternative appropriates up to \$500,000 in FY04 from cigarette tax revenue, subject to OBPP determining that federal revenue and private pay revenues are insufficient to operate the facility at a capacity to maximize the obtaining of federal and private revenue. It applies to FY04 only.

EXHIBIT (jhh38a04)

{Tape: 2; Side: A; Approx. Time Counter: 20 - 21.3}

Kelly Williams, Administrator of SLTC, stated that the \$500,000 would be adequate to give them the needed flexibility. **Ms. Steinbeck** said that in order to implement the language the Subcommittee would need to direct the LFD staff to establish the Veterans' Homes appropriation in a line item. **CHAIRMAN CLARK** asked that the line item be included in the language.

{Tape: 2; Side: A; Approx. Time Counter: 21.3 - 22.3}

Motion/Vote: SEN. COBB moved THAT UP TO \$500,000 FROM CIGARETTE TAX REVENUES ALLOCATED TO MONTANA VETERANS' HOMES IN 16-11-119 MAY BE APPROPRIATED TO THE SENIOR AND LONG TERM CARE DIVISION ABOVE THE LEVEL APPROPRIATED FROM CIGARETTE TAX REVENUE IN VETERANS' HOMES IN SFY04 AND LINE ITEMED. THE APPROPRIATION MAY BE ESTABLISHED SUBJECT TO A DETERMINATION BY THE OBPP THAT FEDERAL AND PRIVATE REVENUES AVAILABLE FROM FEDERAL SPECIAL REVENUE AND PRIVATE PAY STATE SPECIAL REVENUE APPROPRIATIONS IN SFY04 ARE INSUFFICIENT TO OPERATE THE HOMES AT CAPACITY AND MAXIMIZE COLLECTION OF FEDERAL AND PRIVATE PAYMENTS. THE OBPP MUST NOTIFY THE LEGISLATIVE FINANCE COMMITTEE IF IT DETERMINES THE CONDITIONS ARE MET AND THE APPROPRIATION BECOMES EFFECTIVE. Motion carried 4-0. No proxies were voted for REP. HAINES and REP. JAYNE.

{Tape: 2; Side: A; Approx. Time Counter: 22.3 - 28}

SEN. KEENAN commented that he would be having a meeting with Senator Conrad Burns and asked if the Subcommittee or Department had any issues that they would like him to bring up for them. **Gail Gray, Director of DPHHS**, said that the Department is very concerned about Child Support Enforcement and the proposed federal Medicaid bill which would change the TANF Block Grant. She said that the block grant must be cost neutral over the next ten years for Montana. **Deputy Director John Chappuis** added that at present the federal government is saying that when this is adopted the state must opt in immediately. Past practice has allowed the state time to bring such changes before the legislative body, and he suggested that this issue needs to be addressed. The changes are dramatic and require legislative involvement.

Continuing with the items that needed addressing, **SEN. COBB** said that the federal proposal helps the budget up front, but over the long term, it kills the state. **Ms. Steinbeck** added that the base year for this plan is federal fiscal year 2002. **SEN. COBB** also mentioned that the federal government is not allowing Montana to do what other states have been allowed to do. **Ms. Steinbeck** told **SEN. KEENAN** that 24 other states have applied for a Medicaid waiver, but Montana was denied. Montana has had two or three

initiatives which would save general fund; for example, expanding Medicaid coverage for the Mental Health Services Plan, doing exactly what Utah was allowed to do, but the federal government will not allow Montana to do this. **SEN. KEENAN** suggested that they write up something for him to take to his meeting with Senator Burns, and **Ms. Steinbeck** said that they would. Other items were suggested for the list to be given to Senator Burns.

{Tape: 2; Side: A; Approx. Time Counter: 35.4 - 35.4}

REP. HAINES submitted to the record a memorandum from the Board of the Missoula County Commissioners regarding funding for Domestic Violence Programs.

EXHIBIT (jhh38a05)

{Tape: 2; Side: A; Approx. Time Counter: 35.4 - 36}

SEN. COBB asked if they could make a global motion on the items on Exhibit 6. **Ms. Steinbeck** suggested that, if they moved this as a global motion, they should direct staff to work with the Department to adjust the Medicaid provider rates to restore the nonhospital and nonnursing home rate reduction. She referred them to Exhibit 6 and the Nursing Home IGT Subcommittee Initiative (SI), which reduces general fund by \$2 million and increases state special revenue (SSR) by \$2 million. This moves the entire amount taken off the top of the nursing home IGT back into nursing homes. She said that if Exhibit 6 were adopted with the other changes they discussed, as their staff, she would put that funding in the Medicaid match in nursing homes and general fund in the Medicaid match in AMDD.

EXHIBIT (jhh38a06)

EXHIBIT (jhh38a07)

{Tape: 2; Side: A; Approx. Time Counter: 40.5 - 44.6}

Motion: **SEN. COBB** moved **DPS 2, 242, 245, 249, 250, 254, 290, 291, 292, 293, 992, 993, 994, 995, 998, 344, 8146, 353, AND THE SUBCOMMITTEE INITIATIVES IN EXHIBIT 6, INCLUDING DIRECTION TO STAFF TO WORK WITH THE DEPARTMENT TO ADJUST THE MEDICAID PROVIDER RATES TO RESTORE THE NONHOSPITAL AND NONNURSING HOME RATE REDUCTION AND TO PUT \$2 MILLION IN NURSING HOME IGT WITH MEDICAID MATCH BACK IN NURSING HOMES AND GENERAL FUND IN THE MEDICAID MATCH IN AMDD.**

Discussion:

Ms. Steinbeck asked if, in the motion that they had just made, the reductions are to be backfilled with the funds out of the Prevention and Stabilization Account (PSA). **Ms. Gervais** asked if

they also intended that under the Child Care Funding SI, \$325,000 of this would be place in programs within the Child and Family Services (CFS) Division to fund Child Protective Services (CPS) child care. It was agreed that this was the intent.

{Tape: 2; Side: A; Approx. Time Counter: 44.3 - 44.6}

Vote: Motion carried 4-0 on a voice vote. No proxies were voted for REP. JAYNE and SEN. KEENAN.

Discussion of I-146, Tobacco Prevention Money and PSA

{Tape: 2; Side: A; Approx. Time Counter: 44.6 - 49.5}

There followed a conceptual discussion with regard to I-146, the tobacco settlement bill. Referring to Exhibit 7, **SEN. COBB** said that they could postpone implementation for two years and directly allocate the \$2.6 million to Medicaid and the money to CHIP, and also finance the Montana Comprehensive Healthcare Association (MCHA). Everything else will go to the PSA account.

{Tape: 2; Side: B; Approx. Time Counter: 0.1 - 4.1}

Continuing the conceptual discussion, **SEN. COBB** said that the Subcommittee wants to give tobacco prevention \$2.7 million total. **Ms. Steinbeck** said that they need \$1.4 million per year and the sheet appropriates \$1 million. **SEN. COBB** said that they have already appropriated \$1 million, which makes it \$2.3 million, and they will give them another \$1.7 million, not out of I-146, but out of the PSA. **SEN. STONINGTON** said that they want to acknowledge the \$500,000 already budgeted for the tobacco prevention program, and appropriate another \$1 million per year for tobacco prevention. This additional \$1.7 million will be contingent on passage of the tobacco tax.

{Tape: 2; Side: B; Approx. Time Counter: 4.1 - 7.4}

Bob Andersen, OBPP, explained that his understanding of this discussion was that there are two SSR accounts established by I-146, a 17 percent account which is for CHIP and Medicaid, and a 32 percent account for tobacco prevention. OBPP recommended that they agree to take \$500,000 out of the 32 percent account, leaving \$9 million. This remaining amount in the 32 percent could be emptied into the PSA. The tobacco tax money would also be added to this account, so there will be three state special revenue accounts feeding the PSA. However, in I-146 there is a requirement that they appropriate the amount of money that they desire, but it sounds like they intend to appropriate it from the PSA.

{Tape: 2; Side: B; Approx. Time Counter: 7.4 - 12.8}

Ms. Steinbeck said following Mr. Andersen's logic, the money could be appropriated anywhere regardless the specified uses.

The SSR account created in statute for tobacco prevention goes toward specified uses; it does not allow that it can be appropriated for unspecified uses. The Subcommittee would need to amend the statute. **SEN. STONINGTON** asked if the intent of their bill was to establish a prevention and stabilization account and route all tobacco prevention money into it, or route all I-146 money to it. **Ms. Steinbeck** said that this is another policy decision that they must make. She said that they can not make an appropriation from I-146 to another account.

{Tape: 2; Side: B; Approx. Time Counter: 12.8 - 24.}

SEN. STONINGTON recapped that an extra \$1 million of tobacco prevention money should be appropriated for tobacco prevention programs from I-146. The Subcommittee bill will: delay implementation until July 1, 2005; put money coming from the tobacco settlement into the stabilization account; appropriate \$1.5 million per year of the PSA money for tobacco prevention program. **Ms. Steinbeck** said that if they delay implementation of I-146, the state special revenue account for prevention and the PSA do not exist. The money will be in general fund and not allocated anywhere.

Mr. Andersen suggested that they amend I-146 to say that what is not appropriated for prevention could be put in another SSR account called a PSA. They could sunset this piece, and everyone would understand that the current tobacco prevention account would have the amount that they will take out of the tobacco prevention money. If they have taken it down to the level that they want, they could say anything not appropriated for the purpose goes into this PSA. He added that I-146 says that as long as it is deposited in an SSR and not appropriated within two years after the date of the deposit, it is to be transferred to the tobacco trust. **Mr. Andersen** suggested a line item in this language or a sunset provision which says that money not appropriated goes over to the PSA.

SEN. STONINGTON commented that they need to tell the tobacco prevention people that they are willing to give them \$3.2 million per year, plus the federal money for tobacco prevention, and let them know what they intend for the rest of the money.

{Tape: 2; Side: B; Approx. Time Counter: 24 - 43}

There was further discussion of this issue, and **Ms. Steinbeck** said that it would probably be better to divert an amount of money up front and transfer it to the account. **SEN. STONINGTON** suggested that they take all the prevention money and make the tobacco control and prevention appropriation from that. **Ms. Steinbeck** said that they would need to amend the statute and specify an amount to be used for tobacco prevention and a

temporary diversion to the PSA account of the remaining funds. It would also be possible to temporarily amend the statute. The tobacco prevention and control money could be a line item in HB 2 and could be contingent on passage and approval of SB 351, LC 2133 and other bills. **Ms. Steinbeck** said that they would need one language, which she would have ready for the next day, specifying all of the things funded from this: MIAMI, Meals-on-Wheels, child care, and so on. She said that she would discuss this with legal staff to find the cleanest way to make it a one biennium diversion of tobacco prevention funds into the PSA.

Ms. Steinbeck said that they would need to make a motion to increase the tobacco prevention from \$1.5 million state funds per year to \$3.2 million.

{Tape: 2; Side: B; Approx. Time Counter: 46.2 - 49.5}

Motion/Vote: SEN. STONINGTON moved THE TOTAL APPROPRIATION FOR TOBACCO PREVENTION PROGRAMS FROM STATE FUNDS BE \$3.2 MILLION, INCLUDING THE ALREADY APPROVED \$500,000. Motion carried 4-1 with REP. HAINES voting no. REP. CLARK voted SEN. KEENAN's proxy.

REP. HAINES said that he would like to see this motion written down and brought back for discussion and reconsideration by the full committee on the next day.

{Tape: 3; Side: A; Approx. Time Counter: 0.3 - 3.4}

SEN. COBB said that direct care worker rates have not been increased, and he is going to ask for a \$.10 per hour increase, which would cost \$186,000 over the biennium. The only way to pay for this is to raise the IGT tax to make up the difference. He said that he just wanted to bring this to the Subcommittee's attention.

REP. HAINES expressed his desire to see a different approach to the way that the Subcommittee has been conducting business. He would like to see proposals and motions written out so that they have time to look at them and consider. He did not mean it to be disparaging of the Chairman or the Subcommittee, but would like to see the motion they just did brought back for reconsideration the next day.

ADJOURNMENT

Adjournment: 11:00 A.M.

REP. EDITH CLARK, Chairman

SYDNEY TABER, Secretary

EC/ST

EXHIBIT (jhh38aad)